

Filed for intro on 02/08/2001

SENATE BILL 1566

By Henry

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 50, relative to protecting children and staff in schools from toxic pesticides.

WHEREAS, in 1992, the National Parent Teacher Association passed a resolution calling for the reduced use of pesticides in schools and calling on policymakers to consider all possible alternatives before using pesticides; and

WHEREAS, the National Education Association and numerous other national public interest organizations have announced support for reducing or eliminating pesticide use in schools; and

WHEREAS, the U.S. Environmental Protection Agency has recommended the use of an integrated pest management system by school districts; and

WHEREAS, pests are best controlled through an integrated pest management program that combines preventive techniques, nonchemical pest control methods, and the appropriate use of pesticides with preference for products that are the least toxic to human health; and

WHEREAS, Tennessee's public welfare will benefit from adopting integrated pest management statewide in Tennessee public schools; now therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 50, is amended by adding Sections 2 through 8 of this act as an appropriately designated new part.

SECTION 2. As used in this act, unless the context otherwise requires:

(1) "Anti-microbial pesticide" means a pesticide that is used for the control of microbial pests, including, but not limited to, viruses, bacteria, algae and protozoa, and is intended to disinfect, sanitize, reduce or mitigate growth or development of microbiological organisms. Anti-microbial pesticides shall not include any fungicide or pesticide used on plants, turf or other vegetation or for ornamental uses.

(2) "Integrated pest management" means a managed pest control program that eliminates or mitigates economic and health damage caused by pests, minimizes the use of pesticides and the risk to human health and the environment associated with chemical pesticide applications, and uses one (1) or more of the following methodologies:

- (A) Integrated methods;
- (B) Site or pest inspections;
- (C) Pest population monitoring;
- (D) An evaluation of the need for pest control; and,
- (E) One (1) or more pest control methods, including sanitation, structural repairs, mechanical and biological controls, other non-chemical methods, and, if nontoxic options are unreasonable and have been exhausted, the least toxic pesticide.

(3)

(A) "Least toxic pesticide" includes boric acid and disodium octoborate tetrahydrate; silica gels; diatomaceous earth; nonvolatile insect and rodent baits in tamper resistant containers or for crack and crevice treatment only; microbe-

based insecticides; biological, living control agents; pesticides containing essential oils, not including synthetic pyrethrins or toxic synergists; materials for which the inert ingredients are nontoxic and disclosed; and least toxic pesticides that qualify as exempt by the U. S. Environmental Protection Agency (EPA) in 40 CFR Part 152 and Federal Register March 6, 1996, page 8870.

(B) "Least toxic pesticide" does not include a pesticide that is determined by the EPA as a probable, likely or known carcinogen or endocrine disruptor, is a mutagen, reproductive toxin, developmental neurotoxin, or immune system toxin, is classified by the EPA as a toxicity I or II pesticide, is in the organophosphate or carbamate chemical family, or contains inert ingredients categorized as List I: Inerts of Toxicological Concern agent or compound. "Least toxic pesticide" does not include any application of pesticide using tenting, fogging or baseboard spray application.

(4) "Pesticide" means any substance or mixture of substances, including herbicides and bait stations intended for preventing, destroying, repelling or mitigating any pest; use as a plant regulator, defoliants, or desiccant; or use as a spray adjuvant such as a wetting agent or adhesive. "Pesticide" does not include an antimicrobial agent, such as a disinfectant, sanitizer or deodorizer used for cleaning purposes.

SECTION 3. The policy goals of this act are to:

- (a) Minimize children's exposure to chemical pesticides in the school setting;
- (b) Promote safer, cost-effective alternatives to chemical pesticides in schools while preventing economic and health damage caused by pests;
- (c) Provide guidelines for and implement the use of integrated pest management techniques in schools;
- (d) Ensure accurate notification, posting, and record keeping concerning the use of pesticides in public schools; and

(e) Give guidance to school systems about least toxic pesticides and pest control products and the safest methods of pest control for schools.

SECTION 4.

(a) Guidelines for integrated pest management programs for indoor and outdoor pest control practices at public school buildings developed by the University of Tennessee Cooperative Extension Service School Integrated Pest Management (IPM) Program shall be made available to public schools and to the general public upon request.

(b) When economically feasible, each school system is required to adopt an integrated pest management program that incorporates the guidelines developed by the University of Tennessee Cooperative Extension Service School IPM Program.

(c) To receive an exemption from implementing a school IPM program, a school system will be required to present a finding demonstrating the economic burden of implementing a school IPM program to the appropriate local governing body, forty-five (45) days prior to the beginning of a new school year at which time public comment shall be received.

(d) In implementing an integrated pest management program, each school system shall designate an IPM contact to assume responsibility for oversight of pest management practices and for record keeping requirements.

SECTION 5.

(a) For purposes of this section, universal notification as set out in this act shall be required for all pest control methods and products. Pesticides subject to posting requirements shall not include:

(1) An antimicrobial agent, such as disinfectant, sanitizer, or deodorizer, used for cleaning purposes as described in subdivision (1) of Section 2; or

(2) Any product on the approved list of "least toxic pesticides" described in subdivision (3) of Section 2.

(b) At the beginning of each school year, each school district shall include a notice of its integrated pest management system in school calendars or other forms of universal notification.

(c) After the beginning of each school year, a school district shall provide the notice required under this section to a newly employed staff member or the parent or guardian of a student newly enrolled during the school year.

(d) After the beginning of each school year, if new products or pesticides are added to the list of products that may be used by the school district, each school district shall include a revised list including all new products to be used in the integrated pest management system of the school district in school calendars or other forms of approved notification.

(e) The notice for subsections (b), (c) and (d) of this section shall include:

(1) A description of the integrated pest management system of the school district;

(2) Any pesticide, including any least toxic pesticide as described in subdivision (3) of Section 2, but not including antimicrobials as described in subdivision (1) of such section, that may be used in a school building or on a school ground as part of the integrated pest management system;

(3) The name, address, and telephone number of the contact person of the school district; and

(4) A statement that the contact person maintains the product label or material safety data sheet of each pesticide used in a school building or on school grounds, that the label or data sheet is available for review by a parent, guardian, staff member or student attending the school, and that the contact

person is available to parents, guardians and staff members for information and comment.

(f) Not less than seventy-two (72) hours before a pesticide, other than a least toxic pesticide as described in subdivision (3) of Section 2 or antimicrobial as described in subdivision (1) of such section, is applied in a school building or on school grounds during the normal school year, the school shall provide to each parent and guardian of each enrolled student and each staff member of the school, notice that includes the following information:

(1) The common name, trade name, and U.S. Environmental Protection Agency registration number of the pesticide;

(2) A description of the location of the application of the pesticide;

(3) A description of the date and time of application, except that, in the case of outdoor pesticide applications, each notice shall include three (3) dates, in chronological order, that the outdoor pesticide applications may take place if the preceding date is canceled;

(4) The following statement :

The Office of Pesticide Programs of the U.S. Environmental Protection Agency has stated: "Where possible, persons who potentially are sensitive, such as pregnant women and infants (less than 2 years old), should avoid any unnecessary pesticide exposure.";

(5) A description of potential adverse effects of the pesticide based on the material safety data sheet of the pesticide;

(6) A description of the reasons for the application of the pesticide;

(7) The name and telephone number of the contact person of the school district; and

(8) Any additional warning information related to the pesticide.

(g) The school may provide the notice required by this act by:

(1) Written notice sent home with the student and provided to staff;

(2) A telephone call;

(3) Direct contact; or

(4) Written notice mailed at least one (1) week before the application.

(h) If the date of the application of the pesticide needs to be extended beyond the period required for notice under this section, the school shall reissue the notice under this section for the new date of application.

(i) Posted Notification Signs

(1) At least seventy-two (72) hours before a pesticide, other than a least toxic pesticide as described in subdivision (3) of Section 2 or an antimicrobial as described in subdivision (1) of Section 2 is used by a school, the school shall post a sign that provides notice of the application of the pesticide

(A) In a prominent place that is in or adjacent to the location to be treated; and

(B) At each entrance to the building or school ground to be treated.

(2) A sign shall be posted as required by this act for the application of a pesticide shall:

(A) Remain posted for at least seventy-two (72) hours after the end of the treatment;

(B) Be of uniform design with a symbol people who cannot read can understand; and,

(C) State the same information as that required for universal notification of the application under subsection (g).

(3) Sign Dimensions.

(A) If an application is made on school grounds the dimensions of each sign shall be at least 16 inches by 20 inches.

(B) If an application is made in a school building, the dimensions of each sign shall be at least 8-1/2 inches by 11 inches.

(4) In the case of outdoor pesticide applications, each sign shall include three dates, in chronological order, that the outdoor pesticide application may take place if the preceding date is cancelled due to weather.

SECTION 6.

(a) For purposes of this section, pesticides subject to emergency posting requirements shall not include:

(1) An antimicrobial agent, such as disinfectant, sanitizer or deodorizer, used for cleaning purposes as described in subdivision (1) of Section 2; or

(2) Any product on the approved list of "least toxic pesticides" as described in subdivision (3) of Section 2.

(b) A school may apply a pesticide in a school or on school grounds without complying with Section 5, in an emergency, subject to the requirements of subsections (a) and (c) of this section.

(c) Not later than the earlier of the time that is twenty-four (24) hours after a school applies a pesticide under this section or the morning of the next school day, the school shall provide to each parent or guardian of students enrolled at the school and to staff members of the school, notice of the application of the pesticide for emergency pest control that includes:

(1) The information required for a notice under Section 5 of this act;

(2) A description of the problem and the factors that qualified the problem as an emergency that threatened the health or safety of a student or staff member; and

(3) A description of the steps the school will take in the future to avoid emergency application of a pesticide under this section.

(d) A school applying a pesticide under this section shall post a sign warning of the pesticide application at the time of the pesticide application and in accordance with subsection (g) of Section 5.

(e) If a school applies a pesticide under this section, the school shall modify the integrated pest management plan to minimize the future applications of pesticides under this section.

(f) A record of the emergency pesticide use, including the identification of the cause and the actions taken to address it, shall be maintained as a part of the records required under Section 4 of this act.

SECTION 7.

(a) Pesticides shall not be stored in school facilities where children are present.

(b) Pesticides, other than "least toxic pesticides" as described in subdivision (3) of Section 2, or antimicrobial agents, as described in subdivision (1) of such section, shall not be used when a school or their grounds are occupied or in use or will be during the twenty-four (24) hour period beginning at the end of the treatment.

SECTION 8. The commissioner of education is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 9. For the purposes of promulgating rules and regulations, this act shall take effect upon becoming law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2001, the public welfare requiring it.